

**TITLE 2. ADMINISTRATION**  
**DIVISION 7. SECRETARY OF STATE**  
**NOTICE OF PROPOSED RULEMAKING**

---

Notice is hereby given that the Secretary of State intends to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

**PROPOSED REGULATORY ACTION**

The Secretary of State proposes the following regulatory action: renumber Sections 20800, 20801, and 20802 of Chapter 8 of Division 7 of Title 2 of the California Code of Regulations to read as Sections 20802, 20803, and 20804, respectively; and add new provisions to read as Sections 20800, 20800.1, 20800.2, 20800.3, 20800.4, 20800.5, 20800.6, 20800.7, 20800.8, 20800.9, 20801, 20801.1, 20801.2, and 20801.3 to implement the statutorily mandated notary public education.

**AUTHORITY AND REFERENCE**

Authority cited: Sections 8201.2 and 8220, Government Code.

Reference cited: Sections 8201 and 8201.2, Government Code.

**INFORMATION DIGEST AND POLICY STATEMENT OVERVIEW**

Assembly Bill 1210 (Nakano), Chapter 513, Statutes of 2003, requires on or after January 1, 2005, any person, in order to qualify as a notary public, to have satisfactorily completed a six-hour course of study approved or provided by the Secretary of State concerning the functions and duties of a notary public prior to his or her appointment. Persons who apply for reappointment as a notary public on or after January 1, 2005 are required to complete a three-hour refresher course. Commencing January 1, 2005, the Secretary of State is required to review any course of study proposed by a vendor, approve any course of study that includes all material that a person is expected to know to satisfactorily complete the written examination, and compile a list of all vendors providing courses of study approved by the Secretary of State.

The proposed regulations prescribe an application and amendment form and a certificate of approval and identify the duties of a vendor approved by the Secretary of State to provide notary public education, including maintaining lists of attendees and responding to inquiries from the Secretary of State. The proposed regulations establish procedures for the following: application for and issuance of certificates of approval; issuance of proof of completion and warning letters; list of approved vendors; notification of changes in vendor information and revised lesson plans; and termination and cancellation of certificates of approval.

## **PUBLIC HEARING**

The Secretary of State has not scheduled a public hearing on the proposed action. Any interested person or his or her authorized representative may request, no later than fifteen (15) days before the close of the written comment period, a public hearing pursuant to Section 11346.8 of the Government Code.

## **WRITTEN COMMENT PERIOD**

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Secretary of State. Written comments must be received by 5:00 p.m. on December 28, 2004 to present statements, arguments, or contentions relating to the proposed action in order for them to be considered by the Secretary of State before a regulation is adopted, amended, or repealed. Submit written comments to the contact person listed below.

## **AVAILABILITY OF THE TEXT IN PLAIN ENGLISH**

The text of the proposed regulations is available in plain English from the contact person listed below.

## **DISCLOSURE REGARDING THE PROPOSED ACTION**

The Secretary of State has made the following determinations:

**Mandate on local agencies and school districts:** The Secretary of State has determined that the proposed regulations do not impose a mandate on local agencies or school districts.

**Cost or savings to any state agency:** The Secretary of State has determined that the statutorily mandated notary public education program and resulting proposed regulations impose an additional cost to the Secretary of State of approximately \$85,000 in the current State fiscal year. It is anticipated that the Secretary of State will be able to absorb these additional costs within the agency's existing budget and resources.

**Cost to any local agency or school district, which must be reimbursed in accordance with Section 17561 of the Government Code:** The Secretary of State has determined that the proposed regulations do not impose a cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

**Other non-discretionary cost or savings imposed upon local agencies:** The Secretary of State has determined that the proposed regulations do not impose other non-discretionary cost or savings imposed on local agencies.

**Cost or savings in federal funding to the state:** The Secretary of State has determined that the proposed regulations do not impose a cost in federal funding to the state.

**Significant, statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states:** The Secretary of State has determined that the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other state. The proposed regulatory action is statutorily required to implement the notary public mandatory education. Notary public applicants and notaries public will incur costs in attending educational courses. However, these costs are a result of statutory provisions and not the proposed regulatory action. The proposed regulations do not broaden the statutory requirements and do not establish the fees educational providers may charge. The Secretary of State anticipates the cost of approved courses of study to be established by market forces.

**Cost impacts that representative private persons or businesses would necessarily incur in reasonable compliance with the proposed action:** The proposed regulatory action is statutorily required to implement the notary public mandatory education. Notary public applicants and notaries public will incur costs in attending educational courses. However, these costs are a result of statutory provisions and not the proposed regulatory action. The proposed regulations do not broaden the statutory requirements and do not establish the fees educational providers may charge. The Secretary of State anticipates the cost of approved courses of study would be established by market forces.

**Adoption of these regulations will not do any of the following:** (1) create nor eliminate jobs within California; (2) create new business or eliminate existing business within California; nor (3) affect the expansion of business currently doing business within California.

**Significant effect on housing costs:** The Secretary of State has determined that the proposed regulatory action does not have a significant effect on housing costs.

## **BUSINESS REPORTING REQUIREMENT**

The business reporting requirement is not applicable to the proposed regulations.

## **SMALL BUSINESS DETERMINATION**

In the fiscal year 2003-04 the Secretary of State commissioned approximately 70,473 notaries public, and as of July 8, 2004, there were 213,067 commissioned notaries public in California. Some of these notaries public establish their own businesses providing notary public services, while others are employed by public and private sector entities. The statutorily mandated notary public education and the resulting proposed regulatory action will impact all notary public applicants and notaries public who apply for a reappointment at the conclusion of their four-year term whose commissions are issued on or after January 1, 2005. The mandatory education course required by statute represents costs to notary public applicants and notaries public. The proposed action may have an impact on small business, although the Secretary of State is unable to determine the number of notary public applicants and notaries public who qualify as small businesses.

## **CONSIDERATION OF ALTERNATIVES**

The Secretary of State must determine that no reasonable alternative considered by the Secretary of State or that has otherwise been identified and brought to the attention of the Secretary of State would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Secretary of State shall have the entire rulemaking file available for inspection and copying throughout the rulemaking process. As of the date this notice is published in the Notice Register, the rulemaking file consists of this public notice, the text of the proposed regulations, the Notary Public Vendor Application and Amendment, form NP40 (09/04), Notary Public Education Vendor Certificate of Approval form, and the initial statement of reasons. The initial statement of reasons includes the express terms of the proposed action and the information upon which the proposed action is based. Copies of the rulemaking file may be obtained at [www.ss.ca.gov/business](http://www.ss.ca.gov/business) or by contacting the contact person listed below. For further information regarding the inspection of the rulemaking file, contact Lisa Niegel, the regulation coordinator, at (916) 653-3345 or Mary Ingham, the designated back-up contact, at (916) 653-4104.

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the close of the public comment period, the Secretary of State may adopt the proposed regulations substantially as described in this notice. If the Secretary of State makes modifications pursuant to Section 11346.8 of the Government Code, which are sufficiently related to the originally proposed text, the modified text with changes clearly indicated shall be available to the public for at least 15 days before the Secretary of State adopts the regulations as revised. Please send requests for copies of any modified regulations to the contact person listed below. The Secretary of State will accept written comments on the modified regulations for 15 days after the date on which the modified regulations are made available. Once the final statement of reasons is prepared in accordance with subdivision (a) of Section 11346.9 of the Government Code copies may be obtained by contacting the contact person listed below.

## **CONTACT PERSON**

Direct all written inquiries and requests for copies of the proposed text of the regulations, initial statement of reasons, modified text of regulations, if any, or other information upon which the rulemaking file is based to: Lisa B. Niegel, Regulation Coordinator, Office of the Secretary of State, Notary Public Section, 1500 11<sup>th</sup> Street, Sacramento, California 95814. Written inquiries and requests for copies of the rulemaking file may also be address to the following designated back-up contact: Mary Ingham, Office of the Secretary of State, Notary Public Section, 1500 11<sup>th</sup> Street, Sacramento, California 95814.